



# MINUTES

## HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, JANUARY 9, 2007  
HUNTINGTON BEACH CIVIC CENTER  
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:15 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

### CALL PLANNING COMMISSION MEETING TO ORDER

**ROLL CALL:**                    *P*                    *P*                    *P*                    *P*                    *P*                    *P*  
*Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley*

### AGENDA APPROVAL

A MOTION WAS MADE BY HORGAN, SECONDED BY LIVENGOOD TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF JANUARY 9, 2007, BY THE FOLLOWING VOTE:

AYES:                    Shier-Burnett, Speaker, Livengood, Scandura, Farley, Horgan, Dwyer

NOES:                    None

ABSENT:                None

ABSTAIN:              None

### MOTION APPROVED

#### **A.     PROJECT REVIEW (FUTURE AGENDA ITEMS):**

##### **A-1.     MITIGATED NEGATIVE DECLARATION NO. 00-07/COASTAL DEVELOPMENT PERMIT NO. 00-13/CONDITIONAL USE PERMIT NO. 00-43 (PARK AVENUE MARINA) – Rami Talleh**

Rami Talleh, Associate Planner, gave an overview of the proposed project and advised of changes to the plans regarding the width of the driveway and staff recommendations. Talleh also advised of two late communications received in opposition to the project.

Commissioner Dwyer asked how much of the property is submerged under water. Talleh stated that the City Council would establish a pier head line.

Discussion ensued regarding the timing of the hearing and the width of the driveway and required easement.

##### **A-2.     ZONING TEXT AMENDMENT NO. 06-08 (SECTION 230.96 – WIRELESS COMMUNICATION FACILITIES) – Rosemary Medel**

Continued to January 23, 2007.

**A-3.     EXTENSION OF TIME NO. 06-10 (PACIFIC CITY – TENTATIVE TRACT MAP NO. 16338) – Jane James**

Jane James, Senior Planner, gave an overview of the extension of time request and work that has been completed on the project. James explained that the current Tentative Tract Map has an expiration date of January 22, 2007; however, an automatic extension of 60 days was put in place upon the application for extension. With the 60 day extension the current expiration date is March 23, 2007. The proposed extension of time would then extend the Tentative Tract Map expiration to March 23, 2008.

Chair Scandura asked when the proposed opening of Pacific City is slated. James advised the retail shops are scheduled for November 2008; the hotel and the first phase of the residential housing is slated for Spring 2009.

Commissioner Speaker disclosed that he is currently on the waiting list for one of the residences at the Pacific City site.

**B.     STUDY SESSION ITEMS:**

**B-1.     MAJOR PROJECTS UPDATE – Herb Fauland**

Herb Fauland, Acting Planning Manager, reviewed the lists of projects slated for completion this year and advised of upcoming projects. Scott Hess, Acting Planning Director, reviewed a list of projects that could potentially be completed this year.

**C.     AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) - NONE**

**D.     PLANNING COMMISSION COMMITTEE REPORTS:**

Commissioner Horgan requested information on Green Building policies in the cities of Aliso Viejo, Mission Viejo, and Irvine, and how they are implemented.

Commissioner Livengood stated that a Green Building walking tour is being offered at the next APA conference in San Diego and that the Design Review Board's next meeting is scheduled for January 11, 2007, at 3:30 p.m.

Commissioner Shier-Burnett noted that the Environmental Board met and reviewed the Mitigated Negative Declaration for the Park Avenue Marina project.

Commissioner Scandura stated that the next Council/School District Issues Committee meeting is scheduled for January 12, 2007, at 12:00 p.m. He also reviewed committee assignments and requested that the Green Building Committee be added to the committee list.

**E.     PUBLIC COMMENTS (Regarding Project Review or Study Session Portions of Meeting):**

Mike Adams, Consultant, spoke in favor of Item SS A-1, and explained that the project has been delayed partially due to the requirement of an additional Biological Report. He stated that the property was a public launch facility in the 1920s and that the applicant's intent is for the project to be compatible with the area.

**F. PLANNING COMMISSION COMMENTS:**

Commissioner Scandura informed the Commissioners on how he will be conducting the future Planning Commission meetings and asked for volunteers to set up the next Planning Commission Workshop tentatively scheduled for March 2007. Commissioners Livengood, Speaker, and Farley volunteered for the Committee.

**6:10 P.M. – RECESS FOR DINNER**

**7:00 P.M. – COUNCIL CHAMBERS**

**CALL PLANNING COMMISSION MEETING TO ORDER**

**PLEDGE OF ALLEGIANCE** – Led by Commissioner Horgan

**ROLL CALL:**                    *P*                    *P*                    *P*                    *P*                    *P*                    *P*                    *P*  
*Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley*

**AGENDA APPROVAL**

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY HORGAN, TO APPROVE THE PLANNING COMMISSION AGENDA OF JANUARY 9, 2007, BY THE FOLLOWING VOTE:**

**AYES:**                    Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley  
**NOES:**                    None  
**ABSENT:**                None  
**ABSTAIN:**              None

**MOTION APPROVED**

**NOMINATION AND ELECTION OF CHAIRPERSON**

John Scandura nominated and elected Planning Commission Chair 6-1 (Scandura-Abstain)

**NOMINATION AND ELECTION OF VICE-CHAIRPERSON**

Tom Livengood nominated and elected Planning Commission Vice Chair 6-1 (Livengood-Abstain)

**WELCOME NEWLY APPOINTED PLANNING COMMISSIONER FRED SPEAKER**

Chair Scandura welcomed Commissioner Speaker back to the Planning Commission.

**A. ORAL COMMUNICATIONS - NONE**

**B. PUBLIC HEARING ITEMS:**

- B-1. MITIGATED NEGATIVE DECLARATION NO. 00-07/COASTAL DEVELOPMENT PERMIT NO. 00-13/CONDITIONAL USE PERMIT NO. 00-43 (PARK AVE. MARINA):** **Applicant:** Hugh Seeds **Request:** **MND:** To analyze the potential environmental impacts associated with the implementation of the proposed project. **CUP/CDP:** To allow the construction of a boat marina consisting of a floating dock with four boat slips, a pedestrian ramp, and public access to the water. The marina also includes a three-story 2,793 square foot marina office with caretaker's unit and 1,189 square feet of associated parking garage and carport on a 6,179 square foot lot. **Location:** 16926 Park Avenue (Terminus of Park Avenue in Huntington Harbor). **Project Planner: Rami Talleh**

**STAFF RECOMMENDATION:** Motion to:

- A. "Approve Mitigated Negative Declaration No. 00-07 with findings and mitigation measures;"
- B. "Approve Coastal Development Permit No. 00-13 and Conditional Use Permit No. 00-43 with findings and suggested conditions of approval."

**The Commission made the following disclosures:**

- Commissioner Shier-Burnett advised she has visited the site, attended the Study Session on 12/7/06, and spoke with staff.
- Commissioner Livengood visited the site and spoke with two residents and staff.
- Commissioner Speaker visited the site and spoke with staff.
- Chair Scandura stated he visited the site; attended the Study Session on 12/7/06; and spoke with Mike Adams, Mayor Coerper, and the nearby motel owner.
- Commissioner Farley – None.
- Commissioner Dwyer visited the site and spoke with staff.
- Commissioner Horgan visited the site and spoke with residents and staff.

Rami Talleh, Associate Planner, gave a Powerpoint presentation of the proposed project. He distributed modified conditions of approval and described the type of easement required for the project. The new condition requires a 20 foot wide vehicle access road in lieu of the original 22 foot requirement. Talleh also advised of two late communications received which are in opposition to the proposed project and one late communication from the County of Orange.

Talleh read into record the late communication received by the County of Orange Planning Department. The letter stated that the required width for a driveway is 24 feet in lieu of the proposed 20 feet.

Commissioner Shier-Burnett asked if any electrical hookups would be installed for the boat docks. Talleh stated there would not be any outlets installed.

Livengood questioned the new required width of the driveway and how it would affect the Fire Department's emergency response vehicles.

Eric Engberg, Fire Marshall, stated that the existing access is 30 feet and the County requirement is 20 feet; which has been deemed adequate.

Commissioner Horgan asked why the item is before the Planning Commission if the neighbor will not grant the required easement. She asked if the applicant knew about the current zoning of the property when he purchased it.

Talleh stated that the applicant was aware of the current zoning and that the open space-water recreation zoning allows marinas subject to entitlement. The caretaker's unit would be considered an accessory use to the proposed marina.

Discussion ensued between Commissioners and staff regarding the width of the easement, emergency vehicle access and parking control.

Commissioner Farley asked if provisions would be put in place to keep the owner from not renting out the boat slips and using the property as a residence. Talleh stated that non-compliance with the conditions in the Conditional Use Permit (CUP) could result in its revocation.

Commissioner Speaker voiced his concern regarding the length of time it would take to revoke the CUP if necessary.

Leonie Mulvihill, Sr. Deputy City Attorney stated that the process of revocation had been conducted on past CUP's and if necessary, would be presented to the Planning Commission or City Council by the Director of Planning.

Livengood stated that flooding on Park Avenue is a constant problem and the new construction may add to the problem.

Dwyer stated that Park Avenue is located in County of Orange jurisdiction; therefore, its flooding issues are not in the Planning Commission's purview regarding this project.

## **THE PUBLIC HEARING WAS OPENED**

Mike Adams, Consultant for the applicant, stated that the small size of the Marina would not impact the neighborhood. He assured the Commission that the public access would be maintained and the caretaker's unit would be consistent with zoning codes.

John Woods, resident, spoke in opposition to the proposed project. He voiced his concern regarding potential flooding, traffic congestion, overnight stays on boats, charter boats and drinking in the proposed boat dock area.

Bruce Duaharelt, resident, stated he is in opposition to the proposed project. Traffic congestion, an insufficient vehicle turning radius, property damage, and flooding were his main concerns.

Debbie Grani, resident, advised she is in opposition to the proposed project. She presented a petition signed by residents concerned about the potential problems associated with a public marina in their neighborhood.

Alicia Dose, resident, spoke in opposition to the proposed project. Ms. Dose stated that she is concerned about local wildlife being harmed if a marina is installed in their neighborhood.

David Slater, resident, spoke in opposition to the proposed project and stated that it is not consistent with current zoning codes. He advised that the proposed project is being processed as a caretaker's unit but is really a residence.

Anna Bostelman, resident, voiced her opposition to the proposed project because of flooding issues already present in the neighborhood. She stated that the proposed project is too large for the peninsula and will cause parking problems for residents.

Gretchen Hoad, resident, spoke in opposition to the proposed project. She stated that she felt the proposed project was trying to avoid current zoning codes by posing as a caretaker's unit. She also voiced concern regarding the loss of open space.

Tom Burke, resident, spoke in opposition to the proposed project. He felt that the neighborhood's peace would be disturbed unnecessarily by boaters having parties in the dock area. He impressed that Park Ave. is a residential area, not a marina.

Tim Haley, resident, spoke in opposition to the proposed project and warned residents against public dock rentals. He referred to a boat dock he owns nearby that has been a constant source of problems after being rented out. Drinking and disturbing the peace of residents has been the main issue.

Michael Van Voorhis, resident and president of the Sunset Beach Homeowners Association, spoke in opposition to the proposed project. He stated that he is an adjacent homeowner and would not grant an easement for the proposed project. He questioned the required width of the entry road. He presented a letter from the County of Orange which stated a 24 foot mandatory width in lieu of the proposed 20 foot easement.

Tom Barry, resident, spoke in opposition to the proposed project and advised he would not grant an easement for access to the marina.

Mark Nialis, Attorney for Mrs. Van Voorhis, spoke about the easement. He stated the easement does not allow for public use and use as such would be an undue burden on his client's property. He referenced the indemnification letter from the County of Orange stating that the applicant would be liable for the care of the drainage ditch along the entrance road. By relieving the County of flooding issues it may create an inverse condemnation to the property.

**WITH NO ONE ELSE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.**

Shier-Burnett questioned the indemnification of the County with regards to the drainage area and who, ultimately, would be responsible for repairs and reimbursements. Talleh stated that the applicant would be liable.

Leonie Mulvihill, Sr. Deputy City Attorney, stated that the applicant and the County of Orange would have to come to an agreement regarding liability. She stated that the indemnification is included as part of the condition for approval and certificate of occupancy for the proposed project.

Shier-Burnett asked if the owner was not able to be financially liable for potential property damage due to flooding, would it be grounds to deny the application.

Mulvihill stated that the City Attorney's Office is unable to regulate that issue since this agreement has not been established and could be modified.

Discussion ensued regarding the required width of the easement, the drainage ditch and property damage liability.

Scandura asked if the width of the entry road would be the sole entrance and would it comply with Americans with Disabilities Act requirements. Talleh stated that the walkway would have to comply with current ADA requirements.

Scott Hess, Acting Director of Planning, noted that staff had not viewed the County of Orange letter stating a 24 foot width requirement until today. He explained that the project application was processed as required by state law and presented to the Planning Commission. Hess stated that building permits would not be issued if current zoning requirements are not met.

Commissioner Livengood reviewed findings for denial with the Commission: Public access is inadequate; the project will have a negative effect on the environment; not consistent with code requirements; does not establish responsibility for long term maintenance and liability for driveway access from Park Avenue; the proposed project is an infill development but will not provide all necessary infrastructure to adequately service the site with regard to storm drains and access; and the commercial use is not compatible with the residential community.

Commissioner Dwyer stated he was against the motion with regards to flooding issues being caused by the proposed project.

Mike Adams, Consultant for the applicant, stated the design could be modified to accommodate the easement and the other issues mentioned by the Planning Commission.

**A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SHIER-BURNETT TO DENY MITIGATED NEGATIVE DECLARATION NO. 00-07/COASTAL DEVELOPMENT PERMIT NO. 00-13/CONDITIONAL USE PERMIT NO. 00-43 WITH FINDINGS, BY THE FOLLOWING VOTE:**

**AYES:** Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Farley  
**NOES:** Dwyer  
**ABSENT:** None  
**ABSTAIN:** None

**MOTION APPROVED**

**FINDINGS FOR DENIAL**

**MITIGATED NEGATIVE DECLARATION NO. 00-07/**  
**COASTAL DEVELOPMENT PERMIT NO. 00-13/**  
**CONDITIONAL USE PERMIT NO. 00-43**

**FINDINGS FOR DENIAL - MITIGATED NEGATIVE DECLARATION NO. 00-07:**

1. The Mitigated Negative Declaration No. 00-07 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and made available for a public comment period of thirty (30) days. Comments received during the comment period were considered by the Planning Commission prior to action on the Mitigated Negative Declaration and Coastal Development Permit No. 00-13/Conditional Use Permit No. 00-43.

2. Mitigation measures are not adequate to avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. There are flooding issues and unsafe pedestrian access to the site. The large structure, elevated pad height, and pavement for parking eliminate open space to handle runoff from flooded streets thus impacting adjacent property owners. The proposed project does not comply with the County of Orange, Sunset Beach Specific Plan requirements for a minimum 24 foot wide vehicular access and submittal of a traffic study.
3. There is substantial evidence in light of the whole record before the Planning Commission that the project, Coastal Development Permit No. 00-13/Conditional Use Permit No. 00-43, will have a significant effect on the environment.

**FINDINGS FOR DENIAL - COASTAL DEVELOPMENT PERMIT NO. 00-13:**

1. Coastal Development Permit No. 00-13 for the construction of a boat marina consisting of an offshore floating dock with four boat slips, a pedestrian ramp, public access to the water, a 2,793 square foot, three story marina office with caretaker's unit and 1,189 square feet of associated parking garage and carport on an approximately 6,179 square foot lot, as proposed, does not conform with the General Plan, including the Local Coastal Program. There is inadequate vehicular and pedestrian access from Park Ave. to the subject site. The proposed marina does not establish responsibility for long term maintenance and liability for the driveway access from Park Avenue to the subject site. In addition the size and scale of the building does not adequately provide public coastal views.
2. At the time of occupancy the proposed development cannot be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project is an infill development but will not provide all necessary infrastructures to adequately service the site with regard to storm drains and access.
3. The development does not conform with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed access to the subject site from Park Ave. as well as the proposed on-site ten foot wide public access path is inadequate because of conflicts between pedestrians and vehicles. Safe pedestrian access is not provided to the site.

**FINDINGS FOR DENIAL – CONDITIONAL USE PERMIT NO. 00-43:**

1. Conditional Use Permit No. 00-43 for the establishment, maintenance, and operation of a boat marina consisting of an offshore floating dock with four boat slips, a pedestrian ramp, public access to the water, a 2,793 square foot, three story marina office with caretaker's unit and 1,189 square feet of associated parking garage and carport on an approximately 6,179 square foot lot will be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The size and scope of the project will result in significant increases in traffic, noise, light and odor above levels anticipated in the area.
2. The Conditional Use Permit is not compatible with surrounding uses because the marina is a commercial use that would impose unmitigatable burdens on the neighborhood.



3. The proposed marina will not comply with the provisions of the base district. The proposed caretaker's unit is not incidental to an open space use because the size and scale of the caretaker's unit is considerably large compared to the proposed marina size which is only four boat slips.
4. The granting of the conditional use permit will adversely affect the General Plan. It is inconsistent with the Land Use Element designation of OS-W (Open Space – Water Recreation) on the subject property. In addition, it is inconsistent with the following policies of the General Plan:

Coastal Element

Policy C 3.2.1 Establish the responsibility for long term maintenance and liability prior to approval of any major recreational facility, including marina, Public Park, trail, etc.

Policy C 4.2.2: Require that the massing, height, and orientation of new development be designed to protect public coastal views.

The proposed marina does not establish responsibility for long term maintenance and liability for the driveway access from Park Avenue and the subject site. In addition the size and scale of the proposed building does not adequately provide public coastal views.

**C. CONSENT CALENDAR - NONE**

**D. NON-PUBLIC HEARING ITEMS - NONE**

**E. PLANNING ITEMS**

**E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING**

**Scott Hess, Acting Planning Director - reported on the items from the previous City Council meeting.**

**E-2. CITY COUNCIL ITEMS FOR NEXT MEETING**

**Scott Hess, Acting Planning Director – reported on the items scheduled for the next City Council meeting.**

**E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING**

**Herb Fauland, Acting Planning Manager – reported on the items scheduled for the next Planning Commission meeting.**

**F. PLANNING COMMISSION ITEMS**

**F-1. PLANNING COMMISSION REQUEST ITEMS – NONE**

**F-2. PLANNING COMMISSION COMMENTS**

Commissioner Shier-Burnett – Thanked Rami Talleh, Associate Planner, for arranging for the hand delivery of public hearing notices to the adjacent properties of Item B-1.

Commissioner Speaker – Thanked staff for their assistance regarding Item B-1.

Vice-Chairperson Livengood – Thanked Rami Talleh for his thorough staff report and presentation of Item B-1. He also asked for information regarding the setback of the church at Bolsa Chica and Warner.

Chairperson Scandura – Thanked Councilmember Gil Coerper for appointing him to the Planning Commission and stated that it is an honor to serve the citizens of Huntington Beach. He thanked his family for attending the meeting and for their support.

Commissioner Farley – None.

Commissioner Horgan – Stated she will be unable to attend the next meeting.

Commissioner Dwyer – Stated he will be unable to attend the next meeting. Advised he is on the Board of the Orange County Marathon and sends his regrets to the family of the runner who passed away during the recent marathon.

**ADJOURNMENT:**

**Adjourned at 10:05 p.m. to the next regularly scheduled meeting of January 23, 2007.**

APPROVED BY:

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Scott Hess, Secretary

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John Scandura, Chair